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June 20, 2014

VIA EMAIL AND ECF

Honorable Richard J. Sullivan
United States District Court Judge
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2104
New York, New York 10007

Re: *Gonyer v. Vane Line Bunkering, Inc.*
Index No.: 13-cv-8488 (RJS)

Dear Judge Sullivan,

We are in receipt of plaintiff Gonyer's ("Plaintiff") June 19, 2014 letter, ostensibly seeking leave to submit yet another amended complaint. Defendant respectfully urges the Court to recognize Plaintiff's request for what it is: more gamesmanship. Plaintiff's request is improper both procedurally and substantively. Procedurally, the question whether a case even exists here (beyond mere ministerial duties) remains *sub judice*. Plaintiff's letter is an obvious attempt to sway the Court's view of the matter, i.e. yet another after-the-fact attempt to change the playing field. This submission is improper and should be ignored or stricken by the Court.

Substantively, even if Plaintiff's submission were appropriate, it changes nothing; as the Court noted during the June 4, 2014 conference, "the jurisdictional question is the question, no doubt about that. And it seems to me that once the offer is accepted, then the entry of a judgment is a ministerial act. The case law is clear on that. So then the case is over."¹ The Court was correct then, and remains so now.

¹ Granting Plaintiff's request would strip the benefits from Defendant's accepted Rule 68 offer by allowing new plaintiffs to take over Plaintiff's concluded case. If the case is permitted to proceed with new plaintiffs, Defendant will seek to withdraw and void Plaintiff's acceptance of the offer. Defendant may further ask the Court to hold an evidentiary hearing regarding Plaintiff's acceptance of the offer.

While Defendant does not concede the accuracy of the representations in Plaintiff's letter, ultimately Plaintiff's request begs the question, as it is not even settled that the Court retains jurisdiction over this matter. In this light, Vane Line respectfully requests the Court reject Plaintiff's request, and not consider his improperly-submitted proposed revised amended complaint.

We thank the Court for its time and continuing attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark A. Beckman", with a long horizontal flourish extending to the right.

Mark A. Beckman

Cc: Counsel of Record (*via* ECF and email)